United Nations A/HRC/RES/25/1

General Assembly

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9 April 2014

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Human Rights Council
Twenty- fifth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Resolution adopted by the Human Rights Council

25/1.
Promoting reconciliation, accountability and human rights in Sri Lanka

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations,

Guided by the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

Bearing in mind General Assembly resolution 60/251 of 15 March 2006,

Recalling Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders, of 18 June 2007,

Recalling also Human Rights Council resolutions 19/2 of 22 March 2012 and 22/1 of 21 March 2013 on promoting reconciliation and accountability in Sri Lanka,

Reaffirming its commitment to the sovereignty, independence, unity and territorial integrity of Sri Lanka,

Reaffirming also that it is the responsibility of each State to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population,

Reaffirming further that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, as applicable,

Reaffirming that all Sri Lankans are entitled to the full enjoyment of their human rights regardless of religion, belief or ethnicity, in a peaceful and unified land,

Welcoming and acknowledging the progress made by the Government of Sri Lanka in rebuilding infrastructure, demining and resettling the majority of internally displaced persons, while noting nonetheless that considerable work lies ahead in the areas of justice,

reconciliation, land use and ownership, the resumption of livelihoods and the restoration of normality to civilian life, and stressing the importance of the full participation of local populations, including representatives of civil society and minorities, in these efforts,

Welcoming the successful holding of Provincial Council elections on 21 September 2013 and, in particular, the high turnout and participation in all three provinces, while noting with concern reports of election-related violence, as well as of voter and candidate intimidation,

Expressing appreciation for the efforts and cooperation of the Government of Sri Lanka in facilitating the visit of the United Nations High Commissioner for Human Rights and providing her with open access, and welcoming the visit of the High Commissioner to Sri Lanka in August 2013,

Expressing deep concern at reported intimidation and retaliation against civil society members who engage with United Nations human rights mechanisms, including those who met with the High Commissioner during her visit,

Expressing serious concern at the continuing reports of violations of human rights in Sri Lanka, including sexual and gender-based violence, enforced disappearances, extrajudicial killings, torture and violations of the rights to freedom of expression, association and peaceful assembly, threats to judicial independence and the rule of law, as well as intimidation of and reprisals against human rights defenders, members of civil society, lawyers and journalists,

Alarmed at the significant surge in attacks against members of religious minority groups in Sri Lanka, including Hindus, Muslims and Christians,

Calling upon the Government of Sri Lanka to fulfil its public commitments, including on the devolution of political authority, which is integral to reconciliation and the full enjoyment of human rights by all members of its population,

Taking note of the report of the Lessons Learnt and Reconciliation Commission of Sri Lanka, its findings and recommendations, and acknowledging its possible contribution to the process of meaningful national reconciliation in Sri Lanka,

Recalling the constructive recommendations contained in the Commission's report, including the need to credibly investigate widespread allegations of extrajudicial killings and enforced disappearances, demilitarize the north of Sri Lanka, implement impartial land dispute resolution mechanisms, re-evaluate detention policies, strengthen formerly independent civil institutions, reach a political settlement on the devolution of power to the provinces, promote and protect the right of freedom of expression for all persons and enact rule of law reforms,

Taking note of the national plan of action to implement the recommendations of the Lessons Learnt and Reconciliation Commission of the Government of Sri Lanka and its commitments as set forth in response to the findings and recommendations of the Commission,

Noting that the national plan of action does not adequately address all of the findings and constructive recommendations of the Commission, and encouraging the Government of Sri Lanka to broaden the scope of the plan to adequately address all elements of the Commission's report,

Noting with concern that the national plan of action and the Commission's report do not adequately address serious allegations of violations of international human rights law and international humanitarian law,

Emphasizing the importance of a comprehensive approach to transitional justice incorporating the full range of judicial and non-judicial measures, including, inter alia, individual prosecutions, reparations, truth-seeking, institutional reform, vetting of public employees and officials, or an appropriately conceived combination thereof, in order to, inter alia, ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, establish independent oversight of the security system, restore confidence in the institutions of the State and promote the rule of law in accordance with international human rights law, with a view to preventing the recurrence of violations and abuses,

Underlining that truth-seeking processes, such as truth and reconciliation commissions, that investigate patterns of past human rights violations and their causes and consequences are important tools that can complement judicial processes, and that, when established, such mechanisms have to be designed within a specific societal context and be founded on broad national consultations with the inclusion of victims and civil society, including non-governmental organizations,

Recalling the responsibility of States to comply with their relevant obligations to prosecute those responsible for gross violations of human rights and serious violations of international humanitarian law constituting crimes under international law, with a view to end impunity,

Recalling also the High Commissioner's conclusion that national mechanisms have consistently failed to establish the truth and to achieve justice, and her recommendation that the Human Rights Council establish an international inquiry mechanism to further investigate the alleged violations of international human rights law and international humanitarian law and monitor any domestic accountability processes,

Encouraging the Government of Sri Lanka to increase its dialogue and cooperation with the Office of the High Commissioner, including with regard to technical assistance,

1. *Welcomes* the oral update presented by the United Nations High Commissioner for Human Rights to the Human Rights Council at its twenty-fourth session[1] and the subsequent report of the Office of the United Nations High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka[2] and the recommendations and conclusions contained therein, including on the establishment of a truth-seeking mechanism and national reparations policy as an integral part of a more comprehensive and inclusive approach to transitional justice;

2. *Calls upon* the Government of Sri Lanka to conduct an independent and credible investigation into allegations of violations of international human rights law and international humanitarian law, as applicable; to hold accountable those responsible for such violations; to end continuing incidents of human rights violations and abuses in Sri Lanka; and to implement the recommendations made in the reports of the Office of the High Commissioner;

3. *Reiterates its call upon* the Government of Sri Lanka to implement effectively the constructive recommendations made in the report of the Lessons Learnt and Reconciliation Commission, and to take all necessary additional steps to fulfil its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans;

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[1] See A/HRC/24/CRP.3/Rev.1.

[2] A/HRC/25/23.

4. *Urges* the Government of Sri Lanka to investigate all alleged attacks by individuals and groups on journalists, human rights defenders, members of religious minority groups and other members of civil society, as well as on temples, mosques and churches, and also urges the Government to hold perpetrators of such attacks to account and to take steps to prevent such attacks in the future;

5. *Calls upon* the Government of Sri Lanka to release publicly the results of its investigations into alleged violations by security forces, including the attack on unarmed protesters in Weliweriya on 1 August 2013, and the report of 2013 by the court of inquiry of the Sri Lanka Army;

6. *Encourages* the Government of Sri Lanka to ensure that all Provincial Councils, including the Northern Provincial Council, are able to operate effectively, in accordance with the 13th amendment to the Constitution of Sri Lanka;

7. *Welcomes* the visit by the Special Rapporteur on the human rights of internally displaced persons in December 2013, and calls upon the Government of Sri Lanka to facilitate the effective implementation of durable solutions for internally displaced persons, including the long-term displaced;

8. *Also welcomes* the invitation to the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the right to education;

9. *Encourages* the Government of Sri Lanka to cooperate with other special procedures mandate holders and to respond formally to their outstanding requests, including long-standing requests;

10. *Takes note* of the recommendations and conclusions of the High Commissioner regarding ongoing human rights violations and the need for an international inquiry mechanism in the absence of a credible national process with tangible results, and requests the Office of the High Commissioner:

(*a*) To monitor the human rights situation in Sri Lanka and to continue to assess progress on relevant national processes;

(*b*) To undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka during the period covered by the Lessons Learnt and Reconciliation Commission, and to establish the facts and circumstances of such alleged violations and of the crimes perpetrated with a view to avoiding impunity and ensuring accountability, with assistance from relevant experts and special procedures mandate holders;

(*c*) To present an oral update to the Human Rights Council at its twenty-seventh session, and a comprehensive report followed by a discussion on the implementation of the present resolution at its twenty-eighth session;

11. *Encourages* the Office of the High Commissioner and relevant special procedures mandate holders to provide, in consultation with and with the concurrence of the Government of Sri Lanka, advice and technical assistance on implementing the above-mentioned steps;

12. *Calls upon* the Government of Sri Lanka to cooperate with the Office of the High Commissioner in the implementation of the present resolution.

53rd meeting
27 March 2014

[Adopted by a recorded vote of 23 to 12, with 12 abstentions. The voting was as follows:

In favour:

Argentina, Austria, Benin, Botswana, Brazil, Chile, Costa Rica, Côte d'Ivoire, Czech Republic, Estonia, France, Germany, Ireland, Italy, Mexico, Montenegro, Peru, Republic of Korea, Romania, Sierra Leone, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, United States of America

Against:

Algeria, China, Congo, Cuba, Kenya, Maldives, Pakistan, Russian Federation, Saudi Arabia, United Arab Emirates, Venezuela (Bolivarian Republic of), Viet Nam

Abstaining:

Burkina Faso, Ethiopia, Gabon, India, Indonesia, Japan, Kazakhstan, Kuwait, Morocco, Namibia, Philippines, South Africa]

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General Assembly

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9 April 2014

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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council

25/2.
Freedom of opinion and expression: mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

The Human Rights Council,

Recalling Human Rights Council resolutions 7/36 of 28 March 2008, 12/16 of 2 October 2009, 16/4 of 24 March 2011 and 23/2 of 13 June 2013, and all previous resolutions of the Commission on Human Rights and the Council on the right to freedom of opinion and expression,

Recognizing that the effective exercise of the right to freedom of opinion and expression, as enshrined in the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights, is essential for the enjoyment of other human rights and freedoms and constitutes a fundamental pillar for building a democratic society and strengthening democracy, bearing in mind that all human rights are universal, indivisible, interdependent and interrelated,

Recalling Human Rights Council resolutions 5/1, on the institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his/her duties in accordance with those resolutions and the annexes thereto,

1. *Welcomes* the work of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;

2. *Decides* to extend the mandate of the Special Rapporteur for a further period of three years;

3. *Urges* all States to cooperate fully with and assist the Special Rapporteur in the performance of his/her tasks, to provide all necessary information requested by him/her and to consider favourably his/her requests for visits and for implementing his/her recommendations;

4. *Requests* the Secretary-General to provide the assistance necessary to the Special Rapporteur to fulfil his/her mandate, in particular by placing adequate human and material resources at his/her disposal;

5. *Requests* the Special Rapporteur to submit an annual report to the Human Rights Council and to the General Assembly covering all activities relating to his/her mandate, with a view to maximizing the benefits of the reporting process;

6. *Decides* to continue its consideration of the issue of the right to freedom of opinion and expression in accordance with its programme of work.

54th meeting
27 March 2014

[Adopted without a vote.]

United Nations A/HRC/RES/25/3

General Assembly

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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council

25/3.
Enhancement of international cooperation in the field of human rights

The Human Rights Council,

Reaffirming its commitment to promoting international cooperation, as set forth in the Charter of the United Nations, in particular Article 1, paragraph 3, as well as relevant provisions of the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights on 25 June 1993, for enhancing genuine cooperation among Member States in the field of human rights,

Recalling the adoption by the General Assembly of the United Nations Millennium Declaration on 8 September 2000, and the renewed commitments to achieve the Millennium Development Goals by their target date of 2015, as set out in the outcome document adopted at the high-level plenary meeting of the sixty-fifth session of the General Assembly on the Millennium Development Goals,

Recalling also all decisions and resolutions of the Commission on Human Rights, the Human Rights Council and the General Assembly on the enhancement of international cooperation in the field of human rights, the latest of which being Council resolution 23/3 of 13 June 2013 and Assembly resolution 68/160 of 18 December 2013,

Recalling further the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001, and the Durban Review Conference, held in Geneva, from 20 to 24 April 2009, and their role in the enhancement of international cooperation in the field of human rights,

Recognizing that the enhancement of international cooperation in the field of human rights is essential for the full achievement of the purposes of the United Nations, including the effective promotion and protection of all human rights,

Recognizing also that the promotion and protection of human rights should be based on the principles of cooperation and genuine dialogue in all relevant forums, including in

the context of the universal periodic review, and be aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings,

Reiterating the role played by the universal periodic review as an important mechanism in contributing to the enhancement of international cooperation in the field of human rights,

Recalling Human Rights Council resolution 6/17 of 28 September 2008, in which the Council requested the Secretary-General to establish a universal periodic review voluntary trust fund to facilitate the participation of developing countries, particularly least developing countries, in the universal periodic review mechanism, and to establish the voluntary fund for financial and technical assistance, to be administered jointly with the universal periodic review voluntary trust fund, in order to provide, in conjunction with multilateral funding mechanisms, a source of financial and technical assistance to help countries implement recommendations emanating from the universal periodic review in consultation with, and with the consent of, the country concerned,

Reaffirming that dialogue among and within religions, cultures and civilizations in the field of human rights could contribute greatly to the enhancement of international cooperation in this field,

Emphasizing the need for further progress in the promotion and encouragement of respect for human rights and fundamental freedoms through, inter alia, international cooperation,

Underlining the fact that mutual understanding, dialogue, cooperation, transparency and confidence-building are fundamental elements in all activities for the promotion and protection of human rights,

1. *Reaffirms* that it is one of the purposes of the United Nations and also the primary responsibility of States to promote, protect and encourage respect for human rights and fundamental freedoms through, inter alia, international cooperation;

2. *Recognizes* that, in addition to their separate responsibilities to their individual societies, States have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level;

3. *Reaffirms* that dialogue among and within cultures and civilizations facilitates the promotion of a culture of tolerance and respect for diversity, and welcomes in this regard the holding of conferences and meetings at the national, regional and international levels on dialogue among civilizations;

4. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

5. *Reaffirms* the importance of the enhancement of international cooperation for the promotion and protection of human rights and for the achievement of the objectives of the fight against racism, racial discrimination, xenophobia and related intolerance;

6. *Considers* that international cooperation in the field of human rights, in conformity with the purposes and principles set out in the Charter of the United Nations and international law, should make an effective and practical contribution to the urgent task of preventing violations of human rights and fundamental freedoms;

7. *Emphasizes* the need to promote a cooperative and constructive approach to the promotion and protection of human rights, as well as to enhance the role of the Human Rights Council in promoting advisory services, technical assistance and capacity-building to support efforts to ensure equal realization of all human rights and fundamental freedoms, where appropriate;

8. *Reaffirms* that the promotion, protection and full realization of all human rights and fundamental freedoms should be guided by the principles of universality, non-selectivity, objectivity and transparency and the enhancement of international cooperation, in a manner consistent with the purposes and principles set out in the Charter;

9. *Emphasizes* the importance of the universal periodic review as a mechanism based on cooperation and constructive dialogue with the objective of, inter alia, improving the situation of human rights on the ground and promoting the fulfilment of the human rights obligations and commitments undertaken by States;

10. *Also emphasizes* the role of international cooperation in support of national efforts and in raising the capacities of States in the field of human rights through, inter alia, the enhancement of their cooperation with human rights mechanisms, including through the provision of technical assistance, upon the request of and in accordance with the priorities set by the States concerned;

11. *Takes note* of the consolidated annual written update on the operations of the Voluntary Fund for Financial and Technical Assistance in the Implementation of the Universal Periodic Review submitted to the Human Rights Council at its twenty-fourth session;[1]

12. *Also takes note* of the compilation prepared by the Office of the United Nations High Commissioner for Human Rights of the views of States and relevant stakeholders on the contribution of the Voluntary Fund for Financial and Technical Assistance,[2] in particular with regard to its sustainability and accessibility, to the implementation of recommendations accepted by States as part of their universal periodic review that required financial support;

13. *Requests* the Office of the High Commissioner to seek to enhance dialogue with representatives from non-traditional donor countries with a view to broaden the donor base and replenish the resources available to both funds;

14. *Also requests* the Office of the High Commissioner to make clear the process by which States request assistance from both funds, and to process such requests in a timely and transparent manner that adequately responds to the requesting States;

15. *Urges* States to continue to support both funds;

16. *Calls upon* States, specialized agencies and intergovernmental organizations to continue to carry out a constructive and cooperative dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encourages non-governmental organizations to contribute actively to this endeavour;

17. *Calls upon* States to further advance initiatives aimed at enhancing international cooperation in the field of human rights on issues of common interest and concern, bearing in mind the need to promote a cooperative and constructive approach in this regard;

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[1] A/HRC/24/56.

[2] A/HRC/19/50.

18. *Urges* States to take necessary measures to enhance bilateral, regional and international cooperation aimed at addressing the adverse impact of consecutive and compounded global crises, such as financial and economic crises, food crises, climate change and natural disasters, on the full enjoyment of human rights;

19. *Invites* States and relevant United Nations human rights mechanisms and procedures to continue to pay attention to the importance of mutual cooperation, understanding and dialogue in ensuring the promotion and protection of all human rights;

20. *Recalls* that, in its resolution 68/160, the General Assembly requested the Secretary-General, in collaboration with the High Commissioner, to consult States and intergovernmental and non-governmental organizations on ways and means, as well as obstacles and challenges and possible proposals to overcome them, for the enhancement of international cooperation and dialogue in the United Nations human rights machinery, including the Human Rights Council;

21. *Re-emphasizes its request* to the Advisory Committee to prepare, in consultation with States, a more focused and in-depth study on the ways and means to enhance international cooperation in the field of human rights, including, but not limited to, the identification of areas where further progress could be made, taking into account the responses received further to the consultations as requested by the General Assembly in its resolution 67/169 of 20 December 2012, and to submit a progressive report to the Human Rights Council at its twenty-sixth session;

22. *Decides* to continue its consideration of the matter in 2014, in accordance with its annual programme of work.

54th meeting
27 March 2014

[Adopted without a vote.]

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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council

25/4. Integrity of the judicial system

The Human Rights Council,

Guided by articles 5, 6, 7, 8, 10 and 11 of the Universal Declaration of Human Rights, and articles 2, 4, 6, 7, 10, 14, 15, 16 and 26 of the International Covenant on Civil and Political Rights, and bearing in mind the Vienna Declaration and Programme of Action,

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance,

Recalling also other important documents on the issue of the integrity of the judiciary endorsed by various forums of the United Nations, in particular the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers, the Guidelines on the Role of Prosecutors, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Safeguards guaranteeing protection of the rights of those facing the death penalty, as well as the Bangalore Principles of Judicial Conduct,

Recalling further its resolution 19/31 of 23 March 2012 and the previous resolutions on the subject of the Commission on Human Rights,

Convinced that the integrity of the judicial system, together with its independence and impartiality, is an essential prerequisite for the protection of human rights and fundamental freedoms, for upholding the rule of law and democracy and ensuring that there is no discrimination in the administration of justice,

Stressing that the integrity of the judiciary should be observed at all times,

1. *Takes note* of the report of the Special Rapporteur on the independence of judges and lawyers on the administration of justice through military tribunals submitted to the General Assembly at its sixty-eighth session;[1]

2. *Also takes note* of conclusions and recommendations made by the Special Rapporteur in her report, in particular that military tribunals, when they exist, must be an integral part of the general justice system and operate in accordance with human rights standards, including by respecting the right to a fair trial and due process of law guarantees;

3. *Reaffirms* the right of everyone to recognition everywhere as a person before the law;

4. *Reiterates* that, as declared in article 14 of the International Covenant on Civil and Political Rights, every person is entitled, in full equality, to a fair and public hearing by a competent, independent and impartial tribunal duly established by law, in the determination of his/her rights and obligations and of any criminal charge against him/her, and that he/she is entitled to the presumption of innocence until proved guilty according to law;

5. *Notes* that, according to paragraph 5 of the Basic Principles on the Independence of the Judiciary, everyone has the right to be tried by ordinary courts or tribunals using established legal procedures, and that tribunals that do not use duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals;

6. *Underlines* that any court trying a person charged with a criminal offence should be competent, independent and impartial;

7. *Urges* States to guarantee that all persons brought to trial before courts or tribunals under their authority have the right to be tried in their presence, to defend themselves in person or through legal assistance of their own choosing and to have all the guarantees necessary for their legal defence;

8. *Calls upon* States to ensure that the principles of equality before the courts and before the law are respected within their judicial systems by, inter alia, providing to those being tried the possibility to examine, or to have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;

9. *Reaffirms* that every convicted person should have the right to have his/her conviction and sentence reviewed by a tribunal of competent, independent and impartial jurisdiction according to law;

10. *Calls upon* States that have military courts or special tribunals for trying criminal offenders to ensure that such bodies are integral part of the general judicial system and that such courts apply procedures that are recognized according to international law as guarantees of a fair trial, including the right to appeal a conviction and a sentence;

11. *Stresses* the importance of developing cooperation between national judicial systems with a view to, inter alia, strengthening the protection of persons deprived of their liberty;

12. *Requests* the United Nations High Commissioner for Human Rights to convene prior to the twenty-eighth session of the Human Rights Council an expert consultation with the participation of representatives of States, the special procedures,

[1] A/68/285.

including the Special Rapporteur on the independence of judges and lawyers, the chairperson-rapporteurs of the Working Group on Enforced or Involuntary Disappearances and the Working Group on Arbitrary Detention, the treaty bodies and regional human rights mechanisms, as well as non-governmental organizations and national human rights institutions for an exchange of views on human rights considerations relating to the issues of administration of justice through military tribunals and the role of the integral judicial system in combating human rights violations;

13. *Also requests* the High Commissioner to provide all the assistance and support necessary for the expert consultation;

14. *Further requests* the High Commissioner to present a summary of the discussions held during the expert consultation to the Human Rights Council at its twenty-eighth session;

15. *Invites* the Special Rapporteur on the independence of judges and lawyers to take full account of the present resolution in the discharge of her mandate;

16. *Decides* to continue consideration of this issue in accordance with its annual programme of work.

54th meeting
27 March 2014

[Adopted by a recorded vote of 27 to 1, with 19 abstentions. The voting was as follows:

In favour:

Algeria, Argentina, Botswana, Brazil, Burkina Faso, Chile, China, Congo, Costa Rica, Cuba, Ethiopia, India, Indonesia, Kazakhstan, Kuwait, Mexico, Morocco, Namibia, Pakistan, Peru, Philippines, Russian Federation, Sierra Leone, South Africa, United Arab Emirates, Venezuela (Bolivarian Republic of), Viet Nam

Against:

United States of America

Abstaining:

Austria, Benin, Côte d'Ivoire, Czech Republic, Estonia, France, Gabon, Germany, Ireland, Italy, Japan, Kenya, Maldives, Montenegro, Republic of Korea, Romania, Saudi Arabia, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland]

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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council

25/5.
Mandate of the Independent Expert on minority issues

The Human Rights Council,

Recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by consensus by the General Assembly in its resolution 47/135 of 18 December 1992,

Taking into consideration article 27 of the International Covenant on Civil and Political Rights and other relevant existing international standards and national legislation,

Recalling all previous resolutions adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council on the rights of persons belonging to national or ethnic, religious and linguistic minorities, including Assembly resolution 68/172 of 18 December 2013, Commission resolution 2005/79 of 21 April 2005, and Council resolutions 7/6 of 27 March 2008 and 16/6 of 24 March 2011 on the mandate of the Independent Expert on minority issues,

Recalling also the paragraphs in the Vienna Declaration and Programme of Action and the Durban Declaration and Programme of Action relating to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Emphasizing the need for reinforced efforts to meet the goal of the full realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, including by addressing their economic and social conditions and marginalization, as well as to end any type of discrimination against them,

Emphasizing also the importance of recognizing and addressing multiple, aggravated and intersecting forms of discrimination against persons belonging to national

or ethnic, religious and linguistic minorities, and the compounded negative impact on the enjoyment of their rights,

Emphasizing further the fundamental importance of human rights education, training and learning, as well as of dialogue, including intercultural and interfaith dialogue, and interaction among all relevant stakeholders and members of society on the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities as an integral part of the development of society as a whole, including the sharing of best practices, such as for the promotion of mutual understanding of minority issues, managing diversity by recognizing plural identities and promoting inclusive and stable societies, as well as social cohesion therein,

Stressing that due consideration should be given to the rights and situation of persons belonging to national or ethnic, religious and linguistic minorities in the elaboration of post-2015 development agendas and in future development goals,

Recalling its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his/her duties in accordance with those resolutions and the annexes thereto,

1. *Takes note* of the report of the Independent Expert on minority issues and its special focus on the inclusion of minority issues in post-2015 development agendas;[1]

2. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights on the rights of persons belonging to national or ethnic, religious and linguistic minorities;[2]

3. *Commends* the Independent Expert for the work undertaken to date, for the important role that she has played in raising the level of awareness of and in giving added visibility to the rights of persons belonging to national or ethnic, religious and linguistic minorities, for her ongoing efforts to promote and protect their rights in order to ensure equitable development and peaceful and stable societies, including through close cooperation with Governments, relevant United Nations bodies and mechanisms and non-governmental organizations, and for her guiding role in the preparation and work of the Forum on Minority Issues, which contributes to efforts to improve cooperation among all United Nations mechanisms relating to the rights of persons belonging to national or ethnic, religious and linguistic minorities;

4. *Expresses its appreciation* to Governments and intergovernmental and non-governmental organizations, as well as to other relevant stakeholders, that have given special attention to the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities and have supported the work of the Independent Expert;

5. *Takes note* of the completion, in November 2013, of the sixth session of the Forum on Minority Issues, which addressed the rights of persons belonging to religious minorities and which, through the widespread participation of stakeholders, provided an important platform for promoting dialogue on this topic, and encourages States to take into consideration the relevant recommendations of the Forum;[3]

6. *Commends* the Forum for its contribution to the efforts of the High Commissioner to improve cooperation and coordination among United Nations

[1] A/HRC/25/56 and Add.1.
[2] A/HRC/25/30.
[3] See A/HRC/22/60.

mechanisms, bodies and specialized agencies, funds and programmes on activities relating to the promotion and protection of the rights of persons belonging to minorities;

7. *Welcomes* the establishment of the special fund for the participation of civil society and other relevant stakeholders in, inter alia, the Forum on Minority Issues, aiming to facilitate the broadest possible participation of civil society representatives and other relevant stakeholders, with particular attention being paid to participants from least developed countries;

8. *Also welcomes* the inter-agency cooperation of United Nations agencies, funds and programmes on minority issues, in particular through the United Nations network on racial discrimination and protection of minorities, coordinated by the Office of the High Commissioner, and urges them to increase their cooperation further by, inter alia, sharing knowledge and developing policies on the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, drawing also on relevant recommendations of the Forum;

9. *Invites* the human rights treaty bodies and special procedures of the Human Rights Council to continue to pay attention, within their respective mandates, to the situation and rights of persons belonging to national or ethnic, religious and linguistic minorities and, in this regard, to take into consideration relevant recommendations of the Forum;

10. *Reaffirms* that the universal periodic review and the United Nations human rights treaty bodies constitute important mechanisms for the promotion and protection of human rights and fundamental freedoms and, in that regard, calls upon States to effectively follow up on accepted universal periodic review recommendations relating to the rights of persons belonging to national or ethnic, religious and linguistic minorities, and encourages States parties to give serious consideration to the follow-up to treaty body recommendations on the matter;

11. *Decides* to extend the mandate of the current mandate holder as a Special Rapporteur on minority issues for a period of three years, and requests the Special Rapporteur:

(*a*) To promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including through consultations with Governments, taking into account existing international standards and national legislation concerning minorities;

(*b*) To examine ways and means of overcoming existing obstacles to the full and effective realization of the rights of persons belonging to minorities;

(*c*) To identify best practices and possibilities for technical cooperation with the Office of the High Commissioner, at the request of Governments;

(*d*) To apply a gender perspective in his/her work;

(*e*) To cooperate and coordinate closely, while avoiding duplication, with existing relevant United Nations bodies, mandates and mechanisms and with regional organizations;

(*f*) To take into account the views of and cooperate closely with non-governmental organizations on matters pertaining to his/her mandate;

(*g*) To guide the work of the Forum on Minority Issues, prepare its annual meetings, to report on its thematic recommendations and to make recommendations for future thematic subjects, as decided by the Human Rights Council in its resolution 19/23 of 23 March 2012;

(*h*) To submit an annual report on his/her activities to the Human Rights Council and to the General Assembly, including recommendations for effective strategies for the better implementation of the rights of persons belonging to national or ethnic, religious and linguistic minorities;

12. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of the tasks and duties mandated to him/her, to provide the mandate holder with all the necessary information requested and to seriously consider responding promptly and favourably to the request of the Special Rapporteur to visit their countries in order to enable him/her to fulfil his/her duties effectively;

13. *Encourages* specialized agencies, regional organizations, national human rights institutions and non-governmental organizations to develop and maintain regular dialogue and cooperation with the mandate holder, as well as to continue to contribute to the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities;

14. *Requests* the Secretary-General and the High Commissioner to provide all the human, technical and financial assistance necessary for the effective fulfilment of the mandate of the Special Rapporteur;

15. *Decides* to continue its consideration of this issue in accordance with its annual programme of work.

54th meeting
27 March 2014

[Adopted without a vote.]

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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council

25/6.
Rights of the child: access to justice for children

The Human Rights Council,

Emphasizing that the Convention on the Rights of the Child constitutes the standard in the promotion and protection of the rights of the child, reaffirming that States parties to the Convention shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized therein, and, bearing in mind the importance of the Optional Protocols to the Convention, calling for their universal ratification and effective implementation, as well as of other human rights instruments,

Welcoming the twenty-fifth anniversary of the adoption of the Convention on the Rights of the Child,

Welcoming also the expected entry into force on 14 April 2014 of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure,

Reaffirming relevant resolutions on the rights of the child of the Commission on Human Rights, the Human Rights Council and the General Assembly,

Recalling its resolution 24/12 of 26 September 2013 on human rights in the administration of justice, including juvenile justice,

Recalling also its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, and stressing that all mandate holders shall discharge their duties in accordance with those resolutions and the annexes thereto,

Reaffirming that the general principles of the Convention on the Rights of the Child, including the best interests of the child, non-discrimination, participation, survival and development, provide the framework for all actions concerning children,

Noting with appreciation the work of the Committee on the Rights of the Child and of other United Nations treaty bodies regarding children's access to justice,

Welcoming the attention paid by the special procedures of the Human Rights Council to the rights of the child in the context of their respective mandates, in particular by the Special Rapporteur on the sale of children, child prostitution and child pornography, and taking note with appreciation of the annual report of the Special Rapporteur to the Human Rights Council,[1] in which she provided an overview of the main issues relating to her mandate,

Acknowledging the important contributions of the Special Representative of the Secretary-General on Violence against Children and of the Special Representative of the Secretary-General for Children and Armed Conflict to the promotion and protection of the rights of the child, and taking note of their recent reports,[2]

Recalling the joint report of the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary-General on Violence against Children,[3] in which they provided an overview of accessible and child-sensitive counselling, complaint and reporting mechanisms to address incidents of violence, and the joint report of the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and response to violence against children within the juvenile justice system,[4]

Recalling also the study by the Expert Mechanism on the Rights of Indigenous Peoples on access to justice in the promotion and protection of the rights of indigenous peoples,[5]

Recalling further the relevant United Nations rules and guidelines for the treatment of children in contact with the justice system, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Guidelines for Action on Children in the Criminal Justice System (the Vienna Guidelines), the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, the Guidelines for the Appropriate Use and Conditions of Alternative Care for Children, the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and the basic principles on the use of restorative justice programmes in criminal matters, and taking note of the guidance note of the Secretary-General on the approach of the United Nations to justice for children of September 2008,

Stressing the importance of preventing violations of the rights of the child before they occur,

Emphasizing that the right to access to justice for all, including obtaining a quick, effective and fair response to protect rights, prevent or solve disputes and control abuse of power through a transparent and efficient process in which mechanisms are available, affordable and accountable, forms an important basis for strengthening the rule of law through the administration of justice,

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[1] A/HRC/25/48.

[2] A/HRC/25/46 and A/HRC/25/47.

[3] A/HRC/16/56.

[4] A/HRC/21/25.

[5] A/HRC/24/50 and Corr.1.

Stressing the importance of accountability for violations and abuses of the rights of the child, in any circumstance, including for those committed in the family, school and other institutions, as well as during armed conflict, and the need to bring perpetrators to justice,

Recalling that every State should provide an effective framework in which children can pursue remedies to redress human rights violations,

Recognizing that the best interests of the child should be a primary consideration to be respected in pursuing remedies for violations of the rights of the child, and that such remedies should take into account the need for child-sensitive procedures at all levels,

Noting that child-sensitive justice should be accessible, age-appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, and should fully respect the rights of the child,

Concerned that children worldwide suffer violations of their rights, while not all of them have access to a fair, timely and effective remedy,

Noting the various barriers to children's access to justice, including lack of awareness of the rights of the child, restrictions on the initiation of or participation in proceedings, the diversity and complexity of procedures, lack of trust in the justice system, lack of training of relevant officials, de jure and de facto discrimination, certain cultural and social norms, the stigma on the children associated with certain crimes, and physical barriers,

Recalling the need to prevent secondary victimization of children by the justice system in procedures involving or affecting them,

Expressing deep concern that, despite the recognition of the right of the child to express his or her views freely on all matters affecting him or her, and bearing in mind their evolving capacities, children are still seldom seriously consulted and involved in such matters owing to a variety of constraints and impediments, and that the full implementation of this right in many parts of the world has yet to be fully realized,

Stressing the need for a multidisciplinary approach to the issue of access to justice for children,

1. *Notes with appreciation* the report of the United Nations High Commissioner for Human Rights on access to justice for children;[6]

2. *Reaffirms* that every child whose rights have been violated shall have an effective remedy;

3. *Recalls* that children are entitled to the same legal guarantees and protection as are accorded to adults, including all fair trial guarantees, while enjoying at the same time the right to special protection because of their status as children;

4. *Emphasizes* that all children in contact with the justice system, including children alleged as, accused of or recognized as having infringed penal law, victims and witnesses or children coming into contact with the justice system for other reasons, such as regarding their care, custody or protection, and in the context of administrative justice, including immigration, are entitled to the safeguarding of their rights, without discrimination of any kind;

[6] A/HRC/25/35.

5. *Recognizes* that certain children may face additional barriers in their access to justice and reaffirms the duty of States to respect and ensure an effective remedy and access to justice for each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status, and to this end calls upon States:

(*a*) To address additional barriers to access to justice that may exist for children belonging to particularly vulnerable groups, including, but not limited to, children placed in institutional settings or in alternative care, children deprived of their liberty, children with disabilities, children living in poverty, children living in the streets, children belonging to national or ethnic, religious and linguistic minorities, indigenous children, asylum-seeking, refugee and migrant children, including unaccompanied and separated migrant children, stateless children, children affected by HIV/AIDS, children involved in or affected by armed conflict or other violence, child victims of sale and sexual exploitation or child, early and forced marriage, children in the worst forms of child labour, children without parental care and children of parents alleged as, accused of or convicted of having infringed penal law;

(*b*) To take into account the specific needs of girls;

6. *Reaffirms* that, in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child must be a primary consideration guiding the entire process, bearing in mind that the concept of the child's best interests is aimed at ensuring both the full and effective enjoyment of all the rights of the child and the holistic development of the child;

7. *Recalls* the right of the child who is capable of forming his or her own views to express those views freely in all matters affecting the child, and that such views should be given due weight in accordance with the age and maturity of the child, and urges States to ensure that children are provided the opportunity to be heard in any judicial or administrative proceedings affecting them, either directly or through a representative or an appropriate body, in accordance with article 12 of the Convention on the Rights of the Child, by taking steps to ensure that:

(*a*) Children have the opportunity to participate in an effective and meaningful way in all matters affecting them, including criminal, civil and administrative proceedings;

(*b*) All children capable of forming their views are given an opportunity to express themselves directly or indirectly, in person or through a representative, in a manner appropriate to their level of understanding, and that such views are given due consideration;

(*c*) Children receive information about the processes in which they are involved, the options available to them in these procedures and the possible consequences of these options, in a manner adapted to their age, maturity and circumstances, conveyed in a language they understand and in a gender- and culture-sensitive manner;

(*d*) The consequences of any decisions affecting the child are explained to him or her in a way that he or she understands;

(*e*) The methodology used to question or otherwise elicit information from children respects their rights, is child-sensitive and adapted to the child's individual circumstances;

8. *Reaffirms* the duty of all States to protect children from all forms of physical or mental violence, injury or abuse, maltreatment or exploitation, and calls upon States:

(*a*) To ensure a safe environment for children in justice processes and that children, including unaccompanied children, in contact with the justice system are protected from any form of hardship by adapting procedures and adopting appropriate protective measures against abuse, exploitation, manipulation, violence, including sexual and gender-based violence, harassment, intimidation, reprisals or secondary victimization, taking into account that the risks faced by boys and girls may differ and that special precautionary measures may be needed when the alleged perpetrator is a parent, a member of the family or a primary caregiver;

(*b*) To ensure that children are treated with care, sensitivity, fairness and respect throughout any procedure or case, with special attention for their personal situation, well-being and specific needs;

(*c*) To institute child-sensitive procedures and safeguards, such as interview rooms designed for children, recesses during a child's testimony, reducing the number of interviews, statements and hearings, and avoiding direct contact between victims, witnesses and alleged perpetrators;

(*d*) To set up procedures enabling proceedings regarding violations of the rights of the child which constitute a breach of criminal codes to proceed ex officio;

(*e*) To ensure the right of every child alleged as, accused of or recognized as having infringed penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, taking into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society;

(*f*) To ensure that children are not subjected to torture or other cruel, inhuman or degrading treatment or punishment;

(*g*) To ensure that, under their legislation and in practice, neither capital punishment nor life imprisonment are imposed for offences committed by persons below 18 years of age;

(*h*) To enact or review legislation to ensure that any conduct not considered a criminal offence or not penalized if committed by an adult is not considered a criminal offence and not penalized if committed by a child, in order to prevent the child's stigmatization, discrimination, victimization and criminalization;

(*i*) To criminalize the sale and sexual exploitation of children, and to establish jurisdiction over these offences when committed in their territory or by their nationals abroad, and to reinforce police and judicial transnational cooperation on information-sharing related to child victims and perpetrators of the sale and sexual exploitation of children, in accordance with domestic laws and policies, in order to facilitate access to justice of child victims;

(*j*) To take special measures to protect children in contact with the criminal justice system, including by providing adequate legal and other appropriate assistance;

(*k*) To consider establishing policies to govern the work of all persons involved in the judicial processes involving children, with a view to ensuring respect for their rights;

(*l*) To ensure that children have access to relevant therapeutic services and measures for victims of neglect, violence, abuse or other crimes in order to prevent the re-victimization of the child and to support healing and reintegration;

(*m*) To ensure the training of all persons working with and for children, including judges, public prosecutors, police, teachers and school administrators, prison staff, probation officers, social workers and health professionals, as well as persons working in the alternative care system, public administration and immigration and border control, on

legislation and policies relevant to the rights of the child, including anti-discrimination and gender equality laws, alternatives to detention, child-sensitive counselling, complaint and reporting mechanisms and child-sensitive skills to communicate with children, and to promote such training for civil society actors and traditional leaders;

(*n*) To ensure that the child's privacy is fully respected at all stages of proceedings;

(*o*) To ensure prompt action and rapid enforcement of decisions in proceedings affecting children;

9. *Also reaffirms* the need to respect all legal guarantees and safeguards at all stages of all justice processes concerning children, including due process, the right to privacy, the guarantee of legal aid and other appropriate assistance under the same or more lenient conditions as adults, and the right to challenge decisions with a higher judicial authority;

10. *Further reaffirms* the responsibilities, rights and duties of parents, legal guardians or other persons legally responsible for the child to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of its rights;

11. *Stresses* that children should have their own legal counsel and representation, in their own name, in proceedings where there is, or could be, a conflict of interest between the child and the parent or other legal guardian;

12. *Also stresses* that legal aid practitioners and lawyers representing children should be trained in and knowledgeable of children's rights and related issues, be capable of communicating with children at their level of understanding, and strive to bring forward the opinion of the child;

13. *Calls upon* States to take steps to remove any possible barriers to children's access to justice, including by;

(*a*) Ensuring that their national legal systems provide effective remedies to children for violations and abuses of their rights, and that children have the possibility to initiate legal proceedings in cases of violations of their rights;

(*b*) Ensuring equal access for children to non-judicial complaints mechanisms and alternative dispute resolution mechanisms;

(*c*) Ensuring that counselling, reporting and complaints mechanisms are accessible to all children, effective, safe and child-sensitive, that they pursue the best interests of the child at all times and that they comply with international human rights standards;

(*d*) Addressing additional barriers and adopting special protective measures to safeguard the rights of children in particularly vulnerable situations to have access to justice and participate in proceedings;

(*e*) Making information on the rights of the child, on the legal system and on access to legal aid widely available to children in a language they understand and in a manner appropriate for their age and maturity, as well as to parents and legal guardians, teachers and people working with and for children;

(*f*) Ensuring that information and support are equally available and, when necessary, adapted to the needs of children with disabilities, children belonging to national or ethnic, religious and linguistic minorities and children belonging to other vulnerable groups, and accessible to children in detention and other closed facilities;

(*g*) Ensuring universal birth registration and age documentation without discrimination of any kind, irrespective of the legal status of the child;

(*h*) Ensuring children's informed consent to decisions in line with their evolving capacities;

(*i*) Increasing public awareness of the rights of the child and, in particular, of their right to express their views freely in all matters affecting them;

(*j*) Developing and strengthening multidisciplinary capacity-building and training initiatives to ensure that all persons working with and for children have the necessary knowledge and skills relating to children's rights and needs;

(*k*) Ensuring that all children have access to legal and other appropriate assistance, including by supporting the establishment of child-sensitive legal aid systems;

(*l*) Encouraging the use of safe, non-intimidating and child-sensitive settings for dealing with cases involving children;

(*m*) With full respect to the child's privacy, encouraging close cooperation between different professionals, where appropriate, in order to obtain a comprehensive understanding of the child, including an assessment of his or her legal, psychological, social, emotional, physical and cognitive situation;

(*n*) Ensuring that decisions are explained to the child in a way and in a language the child understands, in a manner appropriate to the child's age and maturity, and that an interpreter is provided free of charge if the child cannot understand or speak the language used in the proceedings;

(*o*) Ensuring that the child's right to appeal is not more restricted than that of adults;

(*p*) Ensuring systematic enforcement of decisions through a predictable process, thus enhancing confidence in the justice system;

(*q*) Addressing social and cultural norms and customs that may prevent children from accessing justice and claiming redress;

(*r*) Taking into consideration the need to ensure that statutes of limitation periods do not apply for gross violations of international human rights law and are not unduly restrictive for other types of violations, including by ensuring, where appropriate, that they do not begin running before the child has reached majority;

(*s*) Considering, wherever possible, reparations for child victims of rights violations, in order to achieve full redress and reintegration, and that procedures for obtaining and enforcing reparation are readily accessible and child-sensitive;

14. *Recognizes* that alternative mechanisms for solving disputes and seeking redress for violations of the rights of the child, such as diversion, restorative justice processes, mediation, conciliation, arbitration, community-based programmes, complaints mechanisms of national human rights institutions, customary and religious justice processes, or company grievance mechanisms, can provide quick, affordable and accessible remedies, and help to reintegrate the child, while stressing that such mechanisms must be based on strict compliance with international human rights standards and procedural safeguards, and be child- and gender-sensitive;

15. *Encourages* States to allow children, their representatives, civil society organizations and national human rights institutions to bring cases on behalf of or in support of a group of children, or in the public interest, including group litigation and collective or class action suits, as a way to challenge laws, policies, norms and practices

that negatively affect the rights of the child, and to ensure that judicial decisions have wider benefits for children, including those who face additional challenges in initiating judicial proceedings;

16. *Calls upon* States to strengthen child rights monitoring, reporting and complaint and accountability systems, including by designating or establishing an independent human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) with the responsibility of promoting and monitoring respect for the rights of the child;

17. *Encourages* States to develop and strengthen the collection, analysis and dissemination of data for national statistics in the area of children's access to justice and, as far as possible, to use data disaggregated by relevant factors that may lead to disparities and other statistical indicators at the subnational, national, ,subregional, regional and international levels, in order to develop and assess social and other policies and programmes so that economic and social resources are used efficiently and effectively for the full realization of the rights of the child;

18. *Urges* States to systematically integrate children's access to justice in justice sector reforms, rule of law initiatives and national planning processes, such as national development plans and justice sector-wide approaches, and support it through the national budget;

19. *Invites* States, upon their request, to benefit from technical advice and assistance in access to justice and child justice matters provided by relevant United Nations agencies and programmes, and encourages the United Nations High Commissioner for Human Rights to reinforce advisory services and technical assistance relating to access to justice for children;

20. *Emphasizes* the relevance and importance of international cooperation in support of national efforts in the area of child-sensitive justice;

21. *Encourages* States to incorporate detailed and accurate information relating to access to justice for children, including on progress made and challenges encountered and statistics and comparable data, in their periodic reports, as well as information provided for the universal periodic review mechanism and other relevant United Nations monitoring mechanisms;

22. *Recalls* the importance of access to regional and international justice mechanisms when it is ascertained that domestic remedies have been exhausted or that the application of such remedies is unreasonably prolonged or unlikely to bring effective relief, and, in this connection, encourages States to become party to relevant regional and international instruments;

23. *Invites* United Nations bodies, agencies, mechanisms, plans and programmes that support efforts of States to strengthen their judiciary systems, the administration of justice and the rule of law to incorporate access to justice for children into their work, in accordance with their mandates;

24. *Decides* to continue its consideration of the question of the rights of the child in accordance with its programme of work and its resolutions 7/29 of 28 March 2008 and 19/37 of 23 March 2012, and to focus its next full-day meeting on the theme, "Towards better investment in the rights of the child", and invites the High Commissioner to prepare a report on that issue, in close collaboration with relevant stakeholders, including States, the United Nations Children's Fund, other relevant United Nations bodies and agencies, relevant special procedures mandate holders, regional organizations and human rights bodies, civil society, national human rights institutions and children themselves, and to

present it to the Council at its twenty-eighth session, to inform the annual day of discussion on the rights of the child, and requests the High Commissioner to circulate a summary report on the next full-day meeting on the rights of the child;

25. *Welcomes* the work and contribution of the Special Rapporteur on the sale of children, child prostitution and child pornography, and decides to extend for a period of three years the mandate of the Special Rapporteur, in accordance with Human Rights Council resolution 7/13 of 27 March 2008.

54th meeting
27 March 2014

[Adopted without a vote.]

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Human Rights Council
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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council

25/7.
Protection of human rights and fundamental freedoms while countering terrorism

The Human Rights Council,

Reaffirming Human Rights Council decision 2/112 of 27 November 2006 and resolutions 6/28 of 14 December 2007, 7/7 of 27 March 2008, 10/15 of 26 March 2009, 13/26 of 26 March 2010 and 19/19 of 23 March 2012, and Commission on Human Rights resolutions 2003/68 of 25 April 2003, 2004/87 of 21 April 2004 and 2005/80 of 21 April 2005, recalling General Assembly resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006, 62/159 of 18 December 2007, 63/185 of 18 December 2008, 64/168 of 18 December 2009, 65/221 of 21 December 2010, 66/171 of 19 December 2011 and 68/178 of 18 December 2013, and welcoming the efforts of all relevant stakeholders to implement those resolutions,

1. *Calls upon* States to ensure that any measure taken to counter terrorism complies with international law, in particular international human rights, refugee and humanitarian law;

2. *Expresses serious concern* at the violations of human rights and fundamental freedoms, as well as of refugee and international humanitarian law, in the context of countering terrorism;

3. *Reaffirms* its unequivocal condemnation of all acts, methods, practices and financing of terrorism, in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renews its commitment to strengthen international cooperation to prevent and combat terrorism and, in that regard, calls upon States and other relevant actors, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy and its four pillars, which reaffirm, inter alia, respect for human rights for all and the rule of law to be the fundamental basis of the fight against terrorism;

4. *Deeply deplores* the suffering caused by terrorism to the victims and their families, and expresses its profound solidarity with them, and stresses the importance of providing them with proper support and assistance;

5. *Recalls* the panel discussion held by the Human Rights Council, pursuant to Council decision 16/116 of 24 March 2011, on 1 June 2011, which raised awareness of the importance of addressing the human rights of victims of terrorism in the determined effort by the international community to deal with the scourge of terrorism and as part of a comprehensive counter-terrorism policy that respects human rights and fundamental freedoms;

6. *Urges* States, while countering terrorism, to respect and protect all human rights, including economic, social and cultural rights, bearing in mind that certain counter-terrorism measures may have an impact on the enjoyment of those rights;

7. *Reaffirms* that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group;

8. *Urges* States to ensure that measures taken to counter terrorism are not discriminatory, and not to resort to profiling based on stereotypes founded on ethnic, racial, religious or any other ground of discrimination prohibited by international law;

9. *Recognizes* the work carried out by the special procedures of the Human Rights Council in the promotion and protection of human rights and fundamental freedoms while countering terrorism;

10. *Acknowledges* that the active participation of civil society can reinforce ongoing governmental efforts to protect human rights and fundamental freedoms while countering terrorism;

11. *Calls upon* States, while countering terrorism, to ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated has access to an effective remedy and that victims of human rights violations will receive adequate, effective and prompt reparations, which should include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-recurrence;

12. *Also calls upon* States, while countering terrorism, to safeguard the right to privacy in accordance with international law, and urges them to take measures to ensure that interferences with the right to privacy are regulated by law, specifying the purposes in which interference is permitted, and that such interference is not arbitrary or unlawful, nor implemented in a discriminatory manner, and is subject to effective oversight and appropriate redress, including through judicial review or other means;

13. *Further calls upon* States to ensure that any measure taken or means employed to counter terrorism, including the use of remotely piloted aircraft, complies with their obligations under international law, including international human rights law and international humanitarian law;

14. *Urges* States to undertake prompt, independent and impartial fact-finding inquiries whenever there are plausible indications of breaches of their obligations under international human rights law as a result of any measures taken or means employed to counter terrorism and to ensure accountability for those responsible for violations that amount to crimes under national or international law;

15. *Notes with concern* measures that can undermine human rights and the rule of law, such as the detention of persons suspected of acts of terrorism in the absence of a legal basis for detention and due process guarantees, the unlawful deprivation of the right to life, and other fundamental freedoms, such as freedom of assembly and association, the deprivation of liberty that amounts to placing a detained person outside the protection of the

law, the trial of suspects without fundamental judicial guarantees, the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, and the return of suspects to countries without individual assessment of the risk of there being substantial grounds for believing that they would be in danger of subjection to torture, and limitations to effective scrutiny of counter-terrorism measures;

16. *Stresses* that all measures used in the fight against terrorism, including the profiling of individuals and the use of diplomatic assurances, memorandums of understanding and other transfer agreements or arrangements, must be in compliance with the obligations of States under international law, including international human rights, refugee and humanitarian law;

17. *Urges* States, while countering terrorism, to respect the rights to be equal before the courts and tribunals and to a fair trial, as provided for by international law, including international human rights law, such as article 14 of the International Covenant on Civil and Political Rights and, as applicable, international humanitarian law and refugee law;

18. *Reiterates* the concerns expressed by the General Assembly in its resolution 64/168 with regard to measures that can undermine human rights and the rule of law, and urges all States to take all necessary steps to ensure that persons deprived of their liberty, regardless of the place of arrest or detention, enjoy the guarantees to which they are entitled under international law, including the review of their detention and other fundamental judicial guarantees;

19. *Takes note with appreciation* of the report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism;[1]

20. *Requests* the Special Rapporteur, in accordance with his mandate, to continue to gather, request, receive and exchange information on alleged violations of human rights and fundamental freedoms while countering terrorism, and to report regularly to the Human Rights Council;

21. *Requests* all States to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to the urgent appeals and providing the information requested, and to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries;

22. *Encourages* United Nations bodies, agencies, funds and programmes involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism;

23. *Requests* the High Commissioner and the Special Rapporteur to contribute further, appropriately, to the ongoing discussion regarding the efforts of States Members of the United Nations to assure adequate human rights guarantees to ensure fair and clear procedures, in particular with regard to placing on and removing individuals and entities from terrorism-related sanctions lists;

24. *Recalls* that the General Assembly, in its resolution 66/171, recognized the need to continue ensuring that fair and clear procedures under the United Nations terrorism-related sanctions regime are strengthened in order to enhance their efficiency and transparency, and welcomed and encouraged the ongoing efforts of the Security Council in support of these objectives, including by supporting the enhanced role of the office of the

[1] A/HRC/25/59.

ombudsperson and continuing to review all the names of individuals and entities in the regime, while emphasizing the importance of these sanctions in countering terrorism;

25. *Stresses the importance* that relevant United Nations bodies and entities and international, regional and subregional organizations, in particular those that are participating in the Counter-Terrorism Implementation Task Force, which provide technical assistance relating to the prevention and suppression of terrorism to consenting States, include, as appropriate and where consistent with their mandates, the respect of international human rights law and, as applicable, international humanitarian law and refugee law, as well as the rule of law, as an important element of technical assistance that they offer to States related to counter-terrorism, including by drawing on the advice of, and otherwise ensuring the ongoing dialogue with, the special procedures of the Human Rights Council within their mandates and the Office of the High Commissioner and relevant stakeholders;

26. *Requests* the High Commissioner and the Special Rapporteur to present their reports, bearing in mind the content of the present resolution, to the Human Rights Council under agenda item 3, in conformity with its annual programme of work.

54th meeting
27 March 2014

[Adopted without a vote.]

United Nations A/HRC/RES/25/8

General Assembly

Distr.: General
11 April 2014

Original: English

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council

25/8.
The role of good governance in the promotion and protection of human rights

The Human Rights Council,

Guided by the Universal Declaration of Human Rights as a common standard of achievement of all peoples and all nations, and also the Vienna Declaration and Programme of Action, which affirmed that all human rights are universal, indivisible, interdependent and interrelated,

Recalling Human Rights Council resolutions 7/11 of 27 March 2008 and 19/20 of 23 March 2012, and all other resolutions relevant to the role of good governance in the promotion of human rights, as well as the United Nations Millennium Declaration,

Welcoming the resolve of States parties to the United Nations Convention against Corruption, and the commitment made by all States in the 2005 World Summit Outcome[1] to make the fight against corruption a priority at all levels, and noting with interest the provisions of the Convention that have led to the development of a mechanism among States parties to review their progress in combating corruption,

Noting the ongoing work by several important initiatives towards the deepening of good governance practices at the national, regional and international levels,

Recognizing the importance of a conducive environment, at both the national and international levels, for the full enjoyment of human rights and fundamental freedoms and of the mutually reinforcing relationship between good governance and human rights,

Recognizing also that transparent, responsible, accountable, open and participatory government, responsive to the needs and aspirations of the people, is the foundation on

[1] General Assembly resolution 60/1.

which good governance rests, and that such a foundation is one of the indispensable conditions for the full realization of human rights, including the right to development,

Stressing that good governance at the national and international levels is essential for sustained economic growth, sustainable development and the eradication of poverty and hunger and, in this context, reaffirming the Millennium Declaration, the 2005 World Summit Outcome and the outcome of the 2010 High-level Summit on the Millennium Development Goals,

Recognizing the increasing awareness in the international community of the detrimental impact of widespread corruption on human rights through both the weakening of institutions and the erosion of public trust in government, as well as through the impairment of the ability of Governments to fulfil all their human rights obligations,

Realizing that the fight against corruption at all levels plays an important role in the promotion and protection of human rights and in the process of creating an environment conducive to their full enjoyment,

Recognizing that effective anti-corruption measures and the protection of human rights, including by strengthening transparency and accountability in government, are mutually reinforcing,

Noting with interest the outcome of the third, fourth and fifth sessions of the Conference of the States Parties to the United Nations Convention against Corruption, held in Doha in 2009, in Marrakech, Morocco, in 2011, and in Panama City, in 2013,

Stressing the importance of policy coherence and coordination in intergovernmental processes in the area of the promotion and protection of human rights, on the one hand, and of anti-corruption initiatives, on the other,

Stressing also the importance of developing and implementing national legislation on the promotion of access to information and of strengthening the administration of justice, transparency, accountability and good governance at all levels,

Reaffirming the right of every citizen to have access, in general terms of equality, to public service in his/her country as enshrined in article 21 of the Universal Declaration of Human Rights and article 25 (c) of the International Covenant on Civil and Political Rights,

Recognizing that a professional, accountable and transparent public service upholding the highest standards of efficiency, competence and integrity is one of the essential components of good governance,

Recognizing also that the knowledge, training and awareness of public servants, as well as the promotion of a human rights culture within the public service, play a vital role in promoting respect for and the realization of human rights in society,

1. *Welcomes* the publication of the report of the United Nations High Commissioner for Human Rights on the role of the public service as an essential component of good governance in the promotion and protection of human rights,[2] and takes note with interest of her conclusions and recommendations;

2. *Also welcomes* the growing trend towards the universal ratification of the United Nations Convention against Corruption, and encourages States that have not yet ratified this important international instrument to consider doing so;

[2] A/HRC/25/27.

3. *Underlines* that the primary responsibility lies with States at the national level, including through their constitutional provisions and other enabling legislation, consistent with their international obligations, to ensure that professional public services uphold the highest standards of efficiency, competence and integrity, and are predicated on good governance principles, including impartiality, rule of law, transparency, accountability and combating corruption, and stresses the importance of human rights training and education in this regard;

4. *Invites* the Secretary-General to ensure the upholding of the integrity of the United Nations system in its service of humanity, and improved coordination between United Nations agencies, programmes and funds, with a view to ensuring that the United Nations system continues to improve the quality of its work at all levels, including in support of objectives and priorities at the national level;

5. *Requests* the High Commissioner to organize, at the thirtieth session of the Human Rights Council, a panel discussion on a human rights-based approach to good governance in the public service, and to liaise with States, relevant United Nations bodies, agencies and programmes, treaty bodies, special procedures and regional human rights mechanisms, as well as with civil society, including non-governmental organizations, and national human rights institutions, with a view to ensuring their contribution to the panel discussion;

6. *Also requests* the High Commissioner to prepare a report on the panel discussion in the form of a summary report, and to present it to the Human Rights Council at its thirty-first session.

54th meeting
27 March 2014

[Adopted without a vote.]

United Nations A/HRC/RES/25/9

General Assembly

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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council

25/9.
The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations,

Guided by the Universal Declaration of Human Rights, the Declaration on the Right to Development, the Vienna Declaration and Programme of Action and other relevant human rights instruments,

Recalling General Assembly resolutions 60/251 of 15 March 2006, 62/219 of 22 December 2007 and 65/281 of 17 June 2011, and Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007, 11/11 of 18 June 2009 and 16/21 of 25 March 2011,

Recalling also General Assembly resolutions 54/205 of 22 December 1999, 55/61 of 4 December 2000, 55/188 of 20 December 2000, 56/186 of 21 December 2001, 57/244 of 20 December 2002, 58/205 of 23 December 2003, 59/242 of 22 December 2004, 60/1 of 16 September 2005, 60/207 of 22 December 2005, 61/209 of 20 December 2006, 62/202 of 19 December 2007, 63/226 of 19 December 2008, 64/237 of 24 December 2009, 65/1 of 22 September 2010, 65/169 of 20 December 2010, 67/192 of 20 December 2012 and 68/195 of 18 December 2013,

Recalling further Human Rights Council resolutions 17/23 of 17 June 2011, 19/38 of 23 March 2012 and 22/12 of 21 March 2013,

Welcoming the entry into force on 14 December 2005 of the United Nations Convention against Corruption,

Reiterating the commitment to ensure the effective enjoyment of all civil, political, economic, social and cultural rights for everyone, including the right to development, and

the obligation of all States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms,

Reaffirming that all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law, and that in no case may a people be deprived of its own means of subsistence,

Recognizing that fighting corruption at all levels is a priority and that corruption is a serious barrier to effective resource mobilization and allocation and diverts resources away from activities that are vital for poverty eradication, the fight against hunger, and economic and sustainable development,

Alarmed at cases in which the proceeds of corruption-related crimes that involve vast quantities of assets may constitute a substantial proportion of the resources of States, the deprivation of which threatens the political stability and sustainable development of those States and has a negative impact on the application by States of the maximum available resources to the full realization of all human rights for all,

Deeply concerned that the enjoyment of human rights, be they economic, social and cultural, or civil and political, in particular the right to development, is seriously undermined by corruption and the transfer of funds of illicit origin, which may endanger the stability and security of societies, undermine the values of democracy and morality and jeopardize social, economic and political development, especially when an inadequate national and international response leads to impunity,

Recalling the United Nations Convention against Corruption, underlining its central role in fostering international cooperation to facilitate the repatriation of the proceeds of corruption-related crimes, and stressing the need for universal adherence to the Convention and for its full implementation, as well as the full implementation of the resolutions and decisions of the Conference of the States Parties to the Convention, particularly those adopted at its fourth and fifth sessions,

Recalling also that the United Nations Convention against Corruption underlines that States parties should not decline to render mutual legal assistance, pursuant to the Convention, including on the ground of bank secrecy,

Taking note of the work carried out by different United Nations bodies, including the United Nations Office on Drugs and Crime, as well as international and regional organizations, in preventing and combating all forms of corruption,

Encouraging all relevant United Nations mechanisms to continue their consideration of the negative impact of illicit financial flows on the enjoyment of human rights, to further explore policy responses to the phenomenon and to coordinate their efforts in this regard,

Recognizing that supportive domestic legal systems are essential in preventing and combating corrupt practices and the transfer of assets of illicit origin and in returning such assets, and recalling that the fight against all forms of corruption requires strong institutions at all levels, including at the local level, able to take efficient preventive and law enforcement measures consistent with the United Nations Convention against Corruption, in particular chapters II and III thereof,

Appreciating the continued efforts of the Conference of the States Parties to the United Nations Convention against Corruption, through its various intergovernmental working groups, to oversee the review process of the implementation of the Convention, to advise on the provision of technical assistance for building institutional and human capacity in States parties for the prevention of corruption, and to enhance international cooperation, including in the repatriation of funds of illicit origin,

Affirming the responsibilities of requesting and requested States in the repatriation of funds of illicit origin, cognizant that countries of origin must seek repatriation as part of their duty to ensure the application of the maximum available resources to the full realization of all human rights for all, including the right to development, address human rights violations and combat impunity, and that recipient countries, on the other hand, have a duty to assist and facilitate repatriation, including through judicial assistance, as part of their obligation of international cooperation and assistance under chapters IV and V of the United Nations Convention against Corruption and in the field of human rights

Recalling that article 2.1 of the International Covenant on Economic, Social and Cultural Rights notes the need for each State party to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means, and article 3.3 of the Declaration on the Right to Development, which notes that States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development,

Affirming the commitment made at the 2005 World Summit and the 2010 high-level plenary meeting of the General Assembly on the Millennium Development Goals to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds,

Concerned at the difficulties, in particular the practical difficulties, that both requested and requesting States face in the repatriation of funds of illicit origin, taking into account the particular importance of the recovery of stolen assets for sustainable development and stability, and noting the difficulties of providing information establishing a link between the proceeds of corruption in the requested State and the crime committed in the requesting State, which in many cases may be difficult to prove, bearing in mind that everyone charged with a criminal offence has the right to be presumed innocent until proven guilty according to law,

Acknowledging the progress made towards the implementation of the United Nations Convention against Corruption, while recognizing that States continue to face challenges in recovering funds of illicit origin owing to, inter alia, differences in legal systems, the complexity of multijurisdictional investigations and prosecutions, lack of familiarity with the mutual legal assistance procedures of other States and difficulties in identifying the flow of funds of illicit origin, and noting the particular challenges in recovering them in cases involving individuals who are or have been entrusted with prominent public functions and their family members and close associates, and recognizing also that legal difficulties are often exacerbated by factual and institutional obstacles,

Noting with serious concern that, as highlighted in the interim report by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights,[1] despite the scarcity of available public data, most illicit financial outflows are from developing countries and that, despite increased efforts by the international community to curb the flow of illicit funds, recent studies indicate that such flows grew in real terms by an annual average of 8.6 per cent, exceeding the average rate of economic growth in developing countries, over the period 2001 to 2010, and it is estimated that developing countries lost between 783 billion and 1,138 billion United States dollars in illicit financial outflows in 2010, while, as indicated in the comprehensive study prepared by the United Nations High Commissioner for Human Rights on the negative impact of the

[1] A/HRC/22/42 and Corr.1.

non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, in particular economic, social and cultural rights,[2] only about 2 per cent of the estimated funds of illicit origin annually leaving the developing world are repatriated to their countries of origin,

Noting with serious concern also that, as highlighted by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights in his final report,[3] while official development assistance remains an important source of finance for poverty alleviation and development, the substantial amounts lost to illicit financial flows — estimated at 946.7 billion dollars in 2011 — could help the efforts of developing countries to mobilize domestic resources for poverty alleviation, development and realization of human rights, and to reduce their dependence on external financing, which can lead to the erosion of ownership of national development agendas,

Noting the particular concern of developing countries and countries with economies in transition regarding the return of assets of illicit origin derived from corruption, in particular to countries from which they originated, consistent with the principles of the United Nations Convention against Corruption, in particular chapter V thereto, so as to enable countries to design and fund development projects in accordance with their national priorities in view of the importance that such assets can have to their sustainable development,

Convinced that the illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies and the rule of law, and stressing that any resource that the State is deprived of because of corruption has potentially the same negative effect, regardless of whether it is exported or domestically retained,

1. *Takes note with appreciation* of the comprehensive study prepared by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights;[3]

2. *Calls upon* all States that have not yet acceded to the United Nations Convention against Corruption to consider doing so as a matter of priority;

3. *Calls upon* States to consider enacting legislation to address offences by business enterprises, including multinational corporations, which deprive Governments of legitimate domestic sources of revenue for the implementation of their development agendas;

4. *Asserts* the urgent need to repatriate illicit funds to the countries of origin without conditionalities, in accordance with the United Nations Convention against Corruption and in line with the commitments made at the 2005 World Summit and the 2010 high-level plenary meeting of the General Assembly on the Millennium Development Goals to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and urges all States to step up their efforts to trace, freeze and recover those funds;

5. *Acknowledges* the importance of compliance with international human rights law in relation to the repatriation of funds of illicit origin by, inter alia, promoting human rights-based policy coherence in the deliberations and actions by States Members of the

[2] A/HRC/19/42 and Corr.1.
[3] A/HRC/25/52.

Human Rights Council and in the intergovernmental process of implementing the United Nations Convention against Corruption;

6. *Invites* the Conference of the States Parties to the United Nations Convention against Corruption to consider ways of adopting a human rights-based approach in the implementation of the Convention, including when dealing with the repatriation of funds of illicit origin, and appreciates the continued efforts of the Open-ended Intergovernmental Working Group on Asset Recovery of the Conference to assist States parties in fulfilling their obligations under the Convention to prevent, detect and deter in a more effective manner the international transfer of funds of illicit origin and to strengthen international cooperation in asset recovery, bearing in mind that, regardless of the capacities, resources and willingness of the requesting State's institutions and authorities, there is a victim society that is suffering the consequences of the transfer of those funds;

7. *Welcomes* the decision made at the fifth session of the Conference of the States Parties to the United Nations Convention against Corruption to renew the mandate of open-ended intergovernmental expert meetings on international cooperation to advise and assist States with regard to extradition and mutual legal assistance, and notes with appreciation the Stolen Assets Recovery Initiative of the World Bank Group and the United Nations Office on Drugs and Crime, and encourages coordination among existing initiatives;

8. *Calls upon* States to consider establishing an intergovernmental working group on the negative impact of illicit financial flows on the enjoyment of human rights, and to further explore policy responses to the phenomenon;

9. *Realizes* that, while illicit financial outflows from the least developed countries may account for only a small portion of all outflows of funds of illicit origin worldwide, they have a particularly negative impact on social development and the realization of social, economic and cultural rights in these countries, given the size of their economies, and expresses deep concern that such outflows, as estimated by the United Nations Development Programme, exceed the total official development assistance received by many of the least developed countries and, in some cases, surpass their debt service payments;

10. *Underscores* that the repatriation of funds of illicit origin would provide States that have undergone regime change with a further opportunity to improve the realization of economic, social and cultural rights and to fulfil their obligation to meet the legitimate aspirations of their peoples;

11. *Acknowledges* the important role that civil society can play in exposing corruption and drawing attention to the negative impact of the non-repatriation of funds of illicit origin on the rule of law and the realization of economic, social and cultural rights, and reiterates in this context the obligation of States to protect reporting persons in accordance with article 33 of the United Nations Convention against Corruption and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;

12. *Welcomes* recent national initiatives to adopt anti-money-laundering legislation as an important step in the fight against corruption and the willingness demonstrated by some States to cooperate in facilitating the repatriation of funds of illicit origin, and calls for more robust regulations in this regard, including through the implementation of policies aimed at reducing the flow of funds of illicit origin, ensuring their repatriation and the provision of technical assistance to developing countries;

13. *Calls for* further international cooperation through, inter alia, the United Nations system, in support of national, subregional and regional efforts to prevent and

combat corrupt practices and the transfer of assets of illicit origin, in accordance with the principles of the United Nations Convention against Corruption, and in this regard encourages close cooperation at the national and international levels between anti-corruption agencies, law enforcement agencies and financial intelligence units;

14. *Calls upon* all States requested to repatriate funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and to acknowledge that, in fulfilling their obligations in this regard under the United Nations Convention against Corruption, they also have a responsibility towards societies affected by corruption to make every effort to achieve the repatriation of funds of illicit origin to the countries of origin in order to diminish the negative impact of non-repatriation, including on the enjoyment of human rights, in particular economic, social and cultural rights in the countries of origin by, inter alia, lowering the barriers imposed on requiring jurisdictions at the tracing stage and enhancing cooperation in this regard between anti-corruption agencies, law enforcement agencies and financial intelligence units, in particular taking into account the risks of dissipation of those funds and, where appropriate, by delinking confiscation measures from a requirement of conviction in the country of origin;

15. *Calls upon* all States requesting the repatriation of funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and to apply the principles of accountability, transparency and participation in the decision-making process regarding the allocation of repatriated funds to the realization of economic, social and cultural rights in order to improve prevention and detection procedures, correct identified weaknesses or mismanagement, prevent impunity, provide effective remedies directed at creating conditions for avoiding new human rights violations and improve the overall administration of justice;

16. *Reaffirms* that it is the obligation of the State to investigate and prosecute corruption, calls upon all States to strengthen criminal proceedings directed at freezing or restraining funds of illicit origin, and encourages requesting States to ensure that adequate national investigative procedures have been initiated and substantiated for the purpose of presenting mutual legal assistance requests and, in this context, encourages requested States to provide information on legal frameworks and procedures to the requesting State;

17. *Underlines* that there is also a corporate responsibility to comply with and respect all applicable laws and human rights, and a need for greater access to effective remedies by victims in order to realize effective prevention of, and remedy for, business-related human rights harm, as set out in the Guiding Principles on Business and Human Rights;[4]

18. *Stresses the need* for transparency in financial institutions and effective due diligence measures to be applied by financial intermediaries, calls upon States to seek appropriate means in accordance with their international obligations to ensure the cooperation and responsiveness of financial institutions to foreign requests to freeze and recover funds of illicit origin and the provision of an efficient mutual legal assistance regime to States requesting repatriation of those funds, and encourages the promotion of human and institutional capacity-building in that regard;

19. *Recalls* the importance of the mechanism for the review of implementation of the United Nations Convention against Corruption, and urges State parties to comply with

[4] A/HRC/17/31, annex.

their obligations in the conduct of the country reviews to enhance effective implementation of the Convention as a preventive measure for the outflow of illicit financial flows;

20. *Requests* the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, to continue to consider the impact of illicit financial flows on the enjoyment of human rights as part of the mandate;

21. *Also requests* the Independent Expert to undertake a further study to analyse the negative impact of illicit financial flows on the enjoyment of human rights in the context of the post-2015 development agenda, and to present an interim study to the Human Rights Council at its twenty-eighth session and a final study to the Council at its thirty-first session;

22. *Requests* the High Commissioner to provide all necessary facilities and assistance, from within existing resources, to allow the Independent Expert to carry out the mandate set out in the present resolution in the manner she or he independently plans, including by holding consultations, and calls upon all relevant stakeholders, including States and United Nations bodies and agencies, as well as other international and regional entities, to cooperate fully with the Independent Expert in this regard;

23. *Requests* the Secretary-General to bring the present resolution to the attention of all Member States and different forums dealing with the issue of the repatriation of funds of illicit origin within the United Nations system for consideration and necessary action and coordination as appropriate, particularly within the context of the Conference of the States Parties to the United Nations Convention against Corruption;

24. *Decides* to continue its consideration of this matter under the same agenda item.

54th meeting
27 March 2014

[Adopted by a recorded vote of 33 to 2, with 12 abstentions. The voting was as follows:

In favour:

Algeria, Argentina, Benin, Botswana, Brazil, Burkina Faso, Chile, China, Congo, Costa Rica, Côte d'Ivoire, Cuba, Ethiopia, Gabon, India, Indonesia, Kazakhstan, Kenya, Kuwait, Maldives, Mexico, Morocco, Namibia, Pakistan, Peru, Philippines, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, United Arab Emirates, Venezuela (Bolivarian Republic of), Viet Nam

Against:

Japan, United States of America

Abstaining:

Austria, Czech Republic, Estonia, France, Germany, Ireland, Italy, Montenegro, Republic of Korea. Romania, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland]